

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DISA INDUSTRIES A/S,

Plaintiff,

v.

Case No. 07-C-949

THYSSENKRUPP WAUPACA, INC.,

Defendant.

ORDER

Defendant has filed a motion to compel, as well as a related motion to amend its answer to include a claim for inequitable conduct. The basis of both motions is its belief that Plaintiff has been holding back key information about prior art, specifically, a product that Plaintiff itself produced that employed overlapping movement in the squeeze plates. Plaintiff opposes the motion to compel on the grounds that no meet and confer meeting was held, in violation of Fed. R. Civ. P. 37(a)(1) and Civil L. R. 37.1. It also argues that the device in question is not prior art because (among other reasons) it employs only a single pump.

I am satisfied that the motion to compel should be denied at this time. As the Plaintiff notes, its responses to the interrogatories are not even due until later this month. The only reason Defendant used the expedited Civil L. R. 7.4 procedure for its motion was the fact that the discovery deadline was fast approaching, but that deadline has now been extended and the need for urgency has dissipated. If, upon receipt of the Defendant's responses, Plaintiff believes they are inadequate,

it may renew its motion to compel. But for now, it appears the contours of the discovery dispute (if any exists) have not been fully explored by the parties.

Accordingly, the motion to compel is **DENIED**.

SO ORDERED this 21st day of January, 2009.

s/ William C. Griesbach

William C. Griesbach

United States District Judge